

1 contact the engineering money project manager. He
2 pretty much deals with approving, you know, projects
3 given to a particular engineering company. Well, I
4 know this person very well. My wife went to high
5 school with him and his wife.

6 Q. What was his name?

7 A. Bill Bell.

8 Q. Okay.

9 A. Not necessarily that means that, you know,
10 they're going to give us a project, but I remember
11 telling them the kind of work BE&K does, and what we
12 just wanted is just an opportunity to prove ourselves.

13 The project engineer that was going to
14 handle that particular project, I don't know if you're
15 following me --

16 Q. Oh, yes, I am. I'm with you.

17 A. There is a project engineer that was going to
18 manage the project. His name is Al Wujcik.

19 Q. And that was a BE&K employee?

20 A. No, I'm sorry.

21 Q. That was a Motiva employee?

22 A. Motiva employee. Well it happens that I know
23 him very well because I work with him from 1978 to
24 1990, and we have, you know, outside friend, friendly



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1 relationships with his family and mine.

2 So again, I don't want to give the
3 impression that because they know me, you know, in
4 general they are going to give the project.

5 Q. But it helps.

6 A. But it helps a lot because of my experience
7 with them and my performance with them. So it happens
8 that they allow BE&K to be in the project. BE&K
9 wanted this project very, very much because was going
10 to be the first one, the very first one, and they
11 wanted to prove them self for future, future projects.

12 And for this particular project, being a
13 lump sum, meaning that BE&K was going to do it for a
14 set cost, set amount of hours, they bid on it. And
15 the way the whole estimate that was done in terms of
16 the man-hours required was not done as the regular
17 way. Somebody in management, could be the project
18 manager, with maybe other experienced people, they
19 came up with the amount of engineering hours.

20 Q. When you say project manager, you mean at BE&K
21 or Bill Bell?

22 A. BE&K. Mr. Tony Sinibaldi was in charge of
23 that, that project. He was a manager.

24 Q. Okay.



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B 102

1 A. So they did the negotiations with B and -- with
2 Motiva. We were told, and I'm not the only person,
3 there were other people, that they bid, tried to bid
4 the lowest and they did the one below what normally
5 they had done the project to get in. They thought
6 that, and the philosophy is that then by doing other
7 projects they would recover.

8 None of the disciplines that got involved
9 with that project as far as mine and as far as the
10 project engineer that was handling the project, they
11 told us, "You're going to work in this project, this
12 is the amount of hours that are allocated." We didn't
13 have any, anything to say about the hours. And I was
14 not the only that was kind of complaining about what
15 it has been done, not what BE&K did in a way, but we
16 know BE&K bid it pretty low.

17 Being that the case, then we worked with
18 what we were given. And that makes it very difficult,
19 because at the same time they said these are the
20 strict hours. You got to go by that, or then BE&K has
21 to absorb the extra hours that we may go over.

22 Q. Now, let's look -- just give me one second
23 here. Let's look at what Pete Howell said about that,
24 and let's see if you think that what he said was



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1 pretty fair. That would be on EEOC121, which is the
2 very last page. And then it says, "Year in review,
3 What were the employee's accomplishments," and then he
4 starts to say "Obed worked." If you want to just read
5 that and tell me what you think.

6 A. What part is that, please?

7 Q. I might not have highlighted it.

8 A. Like the second --

9 MR. ANGLADE: Right here.

10 A. Oh, that one right there? "Obed worked," okay.

11 Q. Yes, just take a look at that. And then when
12 you've had a chance to read it, tell me if you think
13 that's pretty fair.

14 A. "On the Motiva CCR scrubber project as the
15 process engineer. Project was completed with some
16 engineering overruns for various reasons. Obed
17 learned a lot about lump sum projects while working on
18 this."

19 Q. That's good, the rest of it is about Conoco.

20 So as far as that goes, did you think that
21 was pretty fair.

22 A. Yes. Because it was the first time that I
23 worked in a project like that, and you know, my
24 learning is that, you know, you are really tight on



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1 the amount of hours.

2 Q. Because he didn't say, he didn't say that it
3 was your fault for any reason, right?

4 A. Correct.

5 Q. Okay, good. Okay. Done with that.

6 Now, who was Mr. Howell's supervisor?

7 A. Mr. Shumaker was the, as far as I remember, the
8 engineering manager who was above Pete Howell.

9 Q. Now, as engineering manager, did he have just
10 process or was he in charge of more than the process?

11 A. All the engineering department.

12 Q. Okay. Did you have a lot of interactions with
13 him, Mr. Shumaker?

14 A. Not really; to say hi in the hall.

15 Q. Now, did he have authority to hire and fire
16 without approval from others?

17 A. Well, he needed a feedback from the manager
18 for, basically from Mr. Pete Howell. Because Mr. Pete
19 Howell collects information about my performance based
20 on the project managers that I have worked with.

21 Q. So he, Mr. Shumaker, didn't have enough
22 interaction directly with the engineers to make
23 decisions like that?

24 A. That's correct.



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B 105

1 A. One difference is that he's in management, and
2 I was not.

3 Q. Okay.

4 A. For me that's a difference.

5 Q. Well, let's go back for a second. When he told
6 you about the decision to let you go, did he tell you
7 what the criteria was?

8 A. I asked question, which is then the main, my
9 main concern, is my performance.

10 Q. That's what he told you? Or no --

11 A. No, I asked.

12 Q. Okay.

13 A. His answer was in no way. And I asked that
14 question in subsequent, I think it was one
15 telephone -- yeah, one telephone call, and I ask him
16 again, "Is it performance related?" And he said no.

17 And the day that he was talking to me
18 about the layoff, I asked him if I could work less
19 hours during the week, which normally had been done
20 in periods that the workload, it's low. And that
21 could be working half-day hours during the week or
22 maybe every other week, depending how, how they feel
23 about it. And the answer was no. All those questions
24 that I had in terms of, you know, according to my



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B 106

1 Q. So that is how you indirectly volunteered for
2 reduced pay?

3 A. Yes.

4 Q. Okay, good. I understand. Okay. What about
5 if they said, if they had offered to give you, not
6 accepted the reduced hours that you had volunteered,
7 but instead they had said, "We can give you different
8 kind of work but it would be a reduced dollar per hour
9 rate"?

10 MR. ANGLADE: Objection to the form.
11 Calls for speculation, compound -- and compound.

12 You can answer.

13 Q. Okay, let me actually rephrase it for you so
14 it's not so difficult.

15 Okay, let me see, it was so difficult I
16 can't remember what the question was. Okay. What if
17 they had said, what if Pete Howell had offered you
18 instead to work, say entry level work, which would
19 require a lower pay rate, would you have accepted
20 that?

21 MR. ANGLADE: Same objection.

22 You can answer.

23 A. Most likely.

24 Q. Okay.



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B 107

1 A. And the reason being, because the business
2 like, it's been like a roller coaster. The future
3 most likely that we're going to get more business, so
4 my thinking is that I would get to my regular amount
5 of hours.

6 Q. Okay. I'm going to skip backwards in the time
7 frame now. Conoco was your last project with BE&K,
8 correct? Last full-time project maybe I should say?

9 A. The ConocoPhillips?

10 Q. Tosco was it?

11 A. Yeah, same.

12 Q. Should I call it Tosco for these purposes?

13 A. Yes.

14 Q. Okay. That was your --

15 A. Yes, that -- I'm sorry.

16 Q. Go ahead.

17 A. That was the last assignment.

18 Q. Okay.

19 A. If I recall correctly.

20 Q. Okay. Where was that job site?

21 A. Linden, New Jersey.

22 Q. How far was that from your home at the time?

23 A. It was almost two and a half hours.

24 Q. Did they compensate you for your travel?



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B 108

1 A. It was on per diem, yes.

2 Q. When did you stop working on site at Tosco?

3 A. Just likely before -- well, maybe around May.

4 Right now that's what I recall, May.

5 Q. Okay.

6 A. May 2003.

7 Q. Okay. And then at that point did you come back
8 to the Newark facility?

9 A. Correct.

10 Q. Did you do more follow-up work for Tosco from
11 Newark?

12 A. Yeah, everything, I was not sent to anyplace
13 after the Tosco job.

14 Q. And why did you leave the Tosco project?

15 A. It was completed.

16 Q. Was it finished early?

17 A. It was pretty much open. I was basically doing
18 two functions, and one of them was technical support.
19 And that one depended on when they were going to be
20 able to find somebody for that job position.

21 Q. An in-house person you mean?

22 A. Yes, to be hired directly for Tosco.

23 Q. Did they find someone?

24 A. Yes, they did.



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B 109

1 Q. Was that after you left or before you left?

2 A. No, just, just during that time.

3 Q. Okay. And then you said the first, that was
4 the first function. What was the second function?

5 A. The second function is, it dealt with this
6 process hazards review that I mentioned prior. And
7 from these reviews, there are several items that they
8 need follow-up to correct either safety, most likely
9 safety and hazard conditions. And it was, I was
10 assigned to pretty much address and resolve these
11 particular items.

12 Q. And that part was, the hazard review was
13 finished when you left?

14 A. Yes.

15 Q. Now, did you ever ask to be taken off that
16 project?

17 A. Not -- I don't recall. I mean it was hard to
18 me because I was driving every day round trip to
19 Delaware. And that's going through the New Jersey
20 Turnpike from Delaware to Exit 13, which is across
21 from New York City.

22 Q. Okay. When you finished -- I just want to get
23 the time frame clear. Can you tell me the order
24 between the time you finished, then hiring an in-house



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B 110

1 person, which came first?

2 A. That was -- since I have finished the other
3 function, pretty much the criteria was as soon as they
4 had found somebody permanent, then my job at that time
5 was finished.

6 Q. So you finished the hazard reviews and then
7 that's when they said, "Okay, now we look for in-house
8 person"?

9 A. From the very beginning, since the contract
10 with our agreement with BE&K was, you know, this is
11 the criteria, it's really more -- the emphasis was on
12 the hiring of the person, because I had to follow day
13 to day the operations, and that was more critical than
14 anything else.

15 Q. Okay. So once the hazard review part of it was
16 finished, then at that point any time after that they
17 could hire an in-house directly; is that right?

18 A. They were trying all that time.

19 Q. Okay.

20 A. During the time that I was there, and even
21 prior to the time I was there, they were out looking
22 for people.

23 Q. Okay. Did you talk to anyone, Pete Howell or
24 Mr. Lincoln, or did you talk to anyone about your



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1 work something out or whatever he had pending.

2 Q. How much notice did you have? Were you the one
3 who knew that the project was going to end first
4 before Pete?

5 A. Well, I will say maybe simultaneously I might
6 have had a little bit more of information, but the
7 agreement was that I was going to be there three to
8 four month, and I ended being six to seven month.

9 Q. Okay. And I guess, how did you know that the
10 project, since it had already -- let me start over.
11 It had already run over the estimated time at this
12 point, so how did you know that it was going to end at
13 that point?

14 A. Could you repeat that, please?

15 Q. Sure. In other words, was it because, did
16 Tosco say, "We've hired somebody. We're done"? How
17 did you discover that the project was going to
18 conclude?

19 A. That's the criteria.

20 Q. Okay. Tosco said, "We have been able to locate
21 another person"?

22 A. Yes.

23 Q. And did they give you a time frame for how much
24 time you could stay after that?



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B 112

1 like DuPont, they have their own way of developing a
2 project. And I never was trained on that.

3 And one thing that I have to make note is
4 in the performance reviews, probably the, I don't
5 know, the last two or the last three, that there are
6 questions that refer, what do you think -- I'm
7 paraphrasing.

8 Q. Sure.

9 A. "What do you think you could do to improve in a
10 particular area?" And I suggested very clear that I
11 needed some formal training. And I wrote that down in
12 two consecutive performance review. It was never
13 done.

14 Q. And that was to help, the training was to help
15 you improve in the project management end of it?

16 A. Correct.

17 Q. Okay. Now, let's go not to the next bullet,
18 but then the following one where it says, "Since
19 November 2002."

20 A. Okay, "Since November 2002 we were told by BE&K
21 that the workload was very low and they had concerns
22 about the workload for 2003."

23 Q. And that's still, you still believe that's
24 true?



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B 113

1 A. Yeah, yes, the rumors were that, you know, that
2 was the case from other co-workers.

3 Q. You said rumors from other co-workers, but here
4 it says that you were told by BE&K. So was it both?

5 A. Well, both.

6 Q. Okay. And then we talked a little bit about
7 the next bullet, so we're going to skip that. And go
8 to the next one where it says, "After I was laid off."

9 A. Okay. Okay, the explanation to this is that
10 after I was laid off, there were some people that came
11 up aboard, okay. But these people didn't come in to
12 work directly for BE&K. They went through a company
13 called All States, which what they do, it's provide
14 personnel like Kelly's Personnel. And at this point
15 was engineers.

16 So when BE&K accepts these people from All
17 States, which became a subsidiary of BE&K before all
18 this, these people, they work for the hourly rate,
19 they don't get vacation, they don't get health plan,
20 they don't get days off because of illness. And if
21 you're not there because you're sick or personal days,
22 you don't get paid.

23 Q. Okay.

24 A. So that's the kind of benefit that BE&K getting



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1 A. Not, not through All States that I know. That
2 was kind of a point that I wanted to make.

3 Q. Okay. You want to explain or --

4 A. Well, the point was, you know, the people that
5 laid off like Nassin was, went back because through
6 All States, not directly. And for BE&K is what I
7 explain before about benefits, it's a plus.

8 Q. Okay. If you get recalled through All States,
9 is there a chance that you can get permanent
10 employment with benefits with BE&K?

11 A. In theory, yes.

12 Q. Do you know anyone that that has happened to?

13 A. No.

14 Q. All right, let's move down to the next one. It
15 should start with, "In a conversation with my
16 manager." Can you tell me about that?

17 A. That was Pete Howell, conversation with him. I
18 addressed the issue of BE&K hiring a recent college
19 graduate and when there was hardly any work for me. I
20 was told that BE&K needs to start hiring younger
21 people. And when I said this, I paraphrase, you know.
22 I couldn't recall exactly the words, but the bottom
23 line is that they needed to start bringing new people
24 because of the future of the company is based on that,



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1 developing the people BE&K's way, instead of keeping
2 the dinosaurs. Sorry.

3 Q. Now, this conversation with Pete Howell, when
4 did that take place?

5 A. The same day that I was being laid off.

6 Q. Okay, so at that time you asked him about
7 Chris?

8 A. Yes.

9 Q. And I realize that you're going to have to
10 paraphrase, but I'd just like to try to get, develop a
11 little bit more what his response was to your
12 question.

13 A. Basically he was hired because, I use the word
14 rejuvenate, but companies do that, okay. But
15 companies, I will say, will not slap somebody in the
16 face by doing it pretty much there. Let's say if
17 you're going to hire somebody with that purpose, you
18 know, give it pretty good amount of time, not right
19 there, I'm going to let you off and I just hired this
20 fellow.

21 Q. What's the purpose, to groom them to become
22 something else, or --

23 A. That's part of it. And to some extent you
24 could say economics.



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B 116

1 Q. Okay. I'm trying to figure out what, you said
2 to make them the BE&K way, what does that mean?

3 A. Well, when you are hiring young people, which
4 most companies do, they call it entry level positions,
5 to camouflage what it's behind what they really doing,
6 in my opinion. It's a way that they are getting them
7 from the very beginning and they are kind of molding
8 them to the BE&K way of doing things and future
9 managers.

10 You have to realize that somebody that
11 they hire at 40 years old or 50, this fellow might not
12 be of too much, a very good asset for the company
13 because, you know, what do they have to work, maybe 10
14 years at most. And they feel these people, we're not
15 going to be development for managers because, you
16 know, it's not what they're looking for.

17 Q. Because there's not enough time to develop them
18 into managers?

19 A. That's one.

20 Q. Okay.

21 A. And because these people have been pretty much
22 molded a different way. When I say molded, each
23 company has their way of doing things. And it's easy
24 to bring somebody from the beginning than somebody



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from another company, and this fellow has particular habits from the company that he was working for, and do things kind of hard to get rid of.

That's a general, you know, my general consensus of it.

Q. So would you agree with that, in that it does take a long time to make, create or to mold a manager?

A. Depends on the qualifications of the individual. That's --

Q. It's not necessarily --

A. That's very broad question.

Q. Okay. So it doesn't necessarily tie to age then, whether you can be, develop --

A. It does to a point.

Q. Okay.

A. From what I explain a moment ago.

Q. Okay. So is that all you want to say about Mr. Howell's comment about hiring younger people to rejuvenate the working force, or if you want to add anything to that?

A. That's basically, that's basically what he said. And again, I'm paraphrasing, but that was the message.

Q. Okay. And then the next, which is the last



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Juan Obed Perez

**SUMMARY OF
QUALIFICATIONS**

Twenty three years of Process Engineering experience in the Chemical and Petroleum Refining Industries specifically in technical service and process design.

**PROFESSIONAL
EXPERIENCE**

January 1997 - Present

Tosco Refining Company

Marcus Hook, PA

Senior Process Engineer

In my current position, I am responsible for providing process engineering support for the following processing units: Claus Sulfur Recovery / SCOT Tail Gas Clean-Up, Sour Water Stripper, Vacuum Gas Oil Desulfurization, Fuel Gas Treating, Cooling Water Tower and Boiler House.

Specific duties include monitoring the operation of the above processing units on a daily basis. Optimization of unit operations by developing recommendations which increase throughput, improve operating efficiency, reduce operating costs, improve safety, ensure environmental compliance and increase unit reliability. Trouble shooting of operational problems as required.

December 1993 - January 1997

Tosco Refining Company

Linden, NJ

Senior Process Engineer

Technically responsible for the following processing units: Claus Sulfur Recovery / Beavon-Stretford Tail Gas Clean-Up, Propane and Propylene Recovery and Fuel Gas Treating.

Provided day-to-day support to insure that the above processing units were meeting or exceeding refinery objectives including throughput, product qualities, energy optimization, catalyst and chemicals optimization and reliability. Identified and recommended opportunities in the above areas, in addition to following specific work direction.

February 1993 - September 1993

BE&K

Newark, DE

Lead Engineer

Assigned to the Environmental Upgrade Project for the "F-60" manufacturing facilities in Corpus Christi, Texas. Responsibilities included development of P&ID's, line sizing, instrumentation specification, equipment specification and ordering. Also responsible for assembling construction package.

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EE0C0000000132

September 1990 - February 1993

Bechtel Corporation

Philadelphia, PA

Lead Process Design Engineer

It was my responsibility to provide engineering support to Chevron personnel during the conceptual and detailed design of capital improvement projects. As a Lead Process Engineer, I coordinated the efforts of Bechtel's Process Design Engineers in the development of process design packages, which typically consisted of process flow diagrams, heat and material balances, equipment and instruments data specification sheets and operating guidelines. Other work included Project Engineering responsibilities such as coordinating and overseeing the efforts of electrical and mechanical engineers, for projects where we completed the front-end design.

Some specific assignments included several projects required for Benzene-NESHAP compliance, a Sour Water Stripper study, tray loading rating for distillation columns and a safety relief study.

March 1979 - September 1990

StarEnterprise

Delaware City, DE

Technical Service Engineer

Provided technical support to the Operations Department. Specific responsibilities included the day-to-day monitoring of the Desulfurization and Sulfur Recovery Units to ensure that they were meeting operational objectives and environmental compliance.

July 1975 - March 1979

PPG Industries, R & D

Corpus Christi, TX

Development Engineer

Assisted in the conceptual and detailed design of a semi-commercial pilot plant. Specific responsibilities included the development of flow diagrams, piping and instrumentation drawings, heat and material balance calculations and process equipment specification.

EDUCATION

1971 - 1975

Stevens Institute of Technology Hoboken, NJ

Bachelor of Engineering

■ Major in Chemical Engineering

**PROFESSIONAL
MEMBERSHIPS**

American Institute of Chemical Engineers

**COMPUTER
SKILLS**

Microsoft Word, Microsoft Excel, Simulation Science ProVision and PRO/II

LANGUAGES

Fluent in Spanish (Native Language).

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EE0C0000000133

1 is probably the extent of it.

2 Q. Well, you said he said, he told you what they do,
3 meaning the department?

4 A. Yes, what the company does, yes.

5 Q. Do you recall what he said to you?

6 A. Basically, that BE&K is an engineering design
7 firm. We have multiple clients and they bid out the
8 projects. He told me that -- a little bit of history
9 about the company, that a lot of the work is from DuPont,
10 based on the relationship that BE&K has with DuPont, and
11 that they have other clients outside of DuPont. And that
12 was probably about, to my knowledge, that's about the
13 extent of it.

14 Q. What did he say about the different clients they
15 had?

16 A. What do you mean?

17 Q. You said he talked to you about the different
18 clients they had. You had mentioned he told you a lot of
19 work comes from DuPont. Was there anything else he said?

20 A. I mean, he told me -- not all the work comes from
21 DuPont. They do have clients outside of DuPont, but, and
22 he did list a couple of them, but most of the work does
23 come from DuPont, though.

24 Q. Do you remember the names of the other clients he



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B 121

1 A. To me that goes along with what the scope of the
2 project is. I think that's kind of covered with the
3 scope of the project. So, yes, probably.

4 Q. Well, what did he say to you?

5 A. He told me what the project was for, what our
6 office was doing with this project, and then what this
7 engineer would have been expected to do within this
8 project.

9 Q. And as far as the expectation, what did he say
10 you would be doing, if hired?

11 A. For this project, be performing relief device
12 calculations for plants, for the client's plants.

13 Q. And what does relief device calculations mean?

14 A. Relief devices are pieces of equipment that, due
15 to various codes and laws, have to be on different pipes,
16 different vessels, different things in the plant to
17 protect the plant, protect the equipment in case of an
18 accident.

19 (Discussion off the record.)

20 Q. And what project was he talking about during the
21 interview; do you recall?

22 A. The DTT project.

23 Q. What was the DTT project?

24 A. DuPont Titanium Technologies.



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B 122

1 MR. ANGLADE: Yes.

2 MS. DIBIANCA: Okay.

3 THE WITNESS: I'm guessing about one to two
4 months after I started working.

5 BY MR. ANGLADE:

6 Q. So the \$50,400 was the initial salary you were
7 offered?

8 A. Yes.

9 Q. And you accepted that?

10 A. Yes.

11 Q. Okay. Have you ever been advised by the company
12 that it was undergoing a reduction in force?

13 A. No.

14 Q. You have never been advised by the company it was
15 undergoing a reduction in force?

16 A. Nobody ever told me specifically.

17 Q. Has anyone ever told you indirectly?

18 A. Yes.

19 Q. Who told you that?

20 A. I think it was probably just other co-workers
21 that told me projects were ending up and no projects were
22 coming in, and you can deduce what that means.

23 MS. DIBIANCA: I'm just going to object to
24 the words "reduction in force." That's a legal term.



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B 123

1 DTT project again?

2 A. It is DuPont Titanium Technologies.

3 Q. And what was the objective of this project?

4 A. The objective was to complete relief device
5 calculations for every relief device that was in all the
6 plants or that needed to be installed in all the plants.

7 Q. So it was for every device that didn't have them
8 already?

9 A. Where they should have existed but didn't, didn't
10 currently.

11 Q. Was this just at one particular DuPont plant or
12 all DuPont plants?

13 A. It was one business unit of DuPont, but it was
14 five plants within the business unit.

15 Q. And in what city was this?

16 A. Were the plants?

17 Q. Yes.

18 A. Okay. There is one in Delaware, it is the
19 Edgemoor plant. There is one in New Johnsonville,
20 Tennessee. There is one in DeLisle, Mississippi. There
21 is one in Alta Mira, Mexico, and there is one in Kuan Yin
22 Taiwan. I think it is Taiwan.

23 Q. Were you traveling to all these places for this
24 project?



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1 A. Yes.

2 Q. Anybody else he would assign it to?

3 A. There were different people because of -- at that
4 time that would have been who, who he would have assigned
5 it to.

6 Q. And the time frame we are talking about is when
7 you started.

8 A. Okay.

9 Q. In June of 2003.

10 A. Okay.

11 Q. Right? So these were the people who were working
12 on this project with you?

13 A. Yes.

14 Q. And all of you were getting these assignments?

15 A. Yes.

16 Q. And were all of you doing the same thing?

17 A. For the most part, yes.

18 Q. Now, Nasim Hassan, do you know what his age is?

19 A. No.

20 Q. Do you know if he is over the age of 40?

21 A. I have no idea.

22 Q. Do you know if he was a Senior Engineer?

23 A. I think he is a Senior Engineer. I don't know
24 for certain, though.



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